IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 3:18-cr-00309
v.	)	JUDGE RICHARDSON
	)	
KENNETH DEWAYNE BEACH	)	

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

Before the Court is Defendant's Motion to Suppress (Doc. Nos. 22, 24). Defendant argued that the police officers violated the Fourth Amendment in their search of Defendant's person and of the vehicle Defendant was found inside, and, therefore, that all evidence seized from Defendant's person as well as that vehicle must be suppressed. The Government argued, *inter alia*, that the officers did not violate the Fourth Amendment in searching Defendant's person and the vehicle based on *Terry v. Ohio*, 392 U.S. 1 (1968) and its progeny.

In *Terry v. Ohio*, the Supreme Court held that an officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot. 392 U.S. 1, 30 (1968). While "reasonable suspicion" is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least a minimal level of objective justification for making the stop. *United States v. Sokolow*, 490 U.S. 1, 7 (1989). The officer must be able to articulate more than an "inchoate and unparticularized suspicion or 'hunch'" of criminal activity. *Terry*, 392 U.S. at 27.[1]

[1] The Court realizes that the search of the automobile and of Defendant's person in this case are not justified by suspicion of criminal activity but rather can be justified only by reasonable suspicion that Defendant was armed and dangerous. The Court includes this paragraph merely to provide some background regarding *Terry*.

An officer may, in the course of conducting a legal stop, order a driver out of the vehicle and conduct a *Terry* frisk should the officer reasonably suspect the driver to be armed and dangerous. *United States v. Campbell*, 549 F.3d 364, 372 (6th Cir. 2008); *see United States v. Wright*, 220 F. App'x 417, 420 (6th Cir. 2007) (citing *Pennsylvania v. Mimms*, 434 U.S. 106, 111-12 (1977)) (stating that a police officer may order an individual out of his car and frisk him for weapons if there is a reasonable belief that the individual is armed and dangerous). During the course of a protective pat down, if the officer detects nonthreatening contraband or weapons on the individual's person, the evidence is subject to immediate seizure. *United States v. Hudson*, 405 F.3d 425, 431 (6th Cir. 2005) (citing *Minnesota v. Dickerson*, 508 U.S. 366, 373 (1993)).

In *Michigan v. Long*, 463 U.S. 1032 (1983), the Supreme Court held that "the search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant the officers in believing that the suspect is dangerous and the suspect may gain immediate control of weapons." *Id.* at 1050 (internal citation and quotation marks omitted).

"The inevitable discovery doctrine, an exception to the exclusionary rule, allows unlawfully obtained evidence to be admitted at trial if the government can prove by a preponderance that the evidence inevitably would have been acquired through lawful means." *United States v. Kennedy*, 61 F.3d 494, 497 (6th Cir. 1995).

After reviewing the briefs, the above-stated standards, and the evidence and argument presented at the evidentiary hearing on April 5, 2019, the Court **DENIES** Defendant's Motion to Suppress (Doc. Nos. 22, 24) for the reasons stated on the record at the evidentiary hearing.

IT IS SO ORDERED.

Eli Richardson

ELI RICHARDSON
UNITED STATES DISTRICT JUDGE